

# EXHIBIT “B”

## Lawyers voice concerns about the potential for deleted information as rapper Azealia Banks gets pulled into a lawsuit against Elon Musk

 [businessinsider.com/lawyer-suing-elon-musk-cites-potential-destruction-of-information-concern-2019-1](https://www.businessinsider.com/lawyer-suing-elon-musk-cites-potential-destruction-of-information-concern-2019-1)

Kate Taylor 2m



Azealia Banks and Elon Musk.

Getty Images

- An attorney seeking to subpoena Azealia Banks in a lawsuit centered on Tesla CEO Elon Musk's "funding secured" tweet is arguing that Musk's lawyers "seem to be pressuring" Banks to conceal and destroy information based on a now-deleted tweet by Banks.
- Tesla investors claim that Banks — who was at one of Musk's properties soon after he posted the tweet— could have information relevant to the case. Their motion argues that information on social media is prone to being discarded inadvertently.
- Banks said on Monday that she had told Musk's lawyers she did not want to testify in the case, a reversal from her prior excitement.
- "If investors are looking to me to give them the iconic, succinct, truthful, legendary,

dramatic-pop-culture-courthouse monologue ... they will absolutely get it," Banks told Business Insider last week.

The battle to subpoena Azealia Banks in a lawsuit against Elon Musk and Tesla is heating up.

Last week, Dean Kristy of Fenwick & West, an attorney representing Musk, filed an opposition arguing against the allowance of a subpoena of Azealia Banks, as well as those of Grimes, Business Insider, Gizmodo, and The New York Times. Kristy argued that the motion for leave to serve preservation subpoenas was primarily an attempt to "sensationalize" proceedings.

On Monday, Adam M. Apton of Levi & Korsinsky, the firm representing the investors, fired back.

Apton told Business Insider that the firm is seeking to subpoena Banks in part due to concerns that Musk, Tesla, or others connected to them could pressure the rapper to destroy information that could be relevant in the case.

"Granting the motion would allow the plaintiffs to preserve this evidence and help provide a fair opportunity to take discovery for all parties," Apton said in an email on Monday.

Citing a now-deleted tweet that Banks posted to her private Twitter account on Friday, Apton added a further concern that "lawyers seem to be pressuring Ms. Banks to conceal and/or destroy evidence." The tweet said that Musk's lawyers had previously taken her phone and suggested they tried tampering with information.

Kristy and a representative for Musk did not respond to Business Insider's request for comment. Tesla declined to comment.

The investors are suing Tesla and Musk in a class-action lawsuit, claiming that Musk made false and misleading statements when he tweeted about plans to take the company private at \$420 a share. These tweets, the complaint alleges, negatively impacted people who purchased Tesla stock soon after Musk tweeted about his plans, as they falsely believed that he had funding secured to take the company private.

Banks, for her part, told Business Insider on Monday that she was no longer interested in testifying in the case, a reversal from the previous excitement she expressed on the topic. Banks said that she had told Musk's lawyers about her reticence earlier in the day on Monday.

"I never TRULY wanted to go to court, it was just something to joke about," she said in an Instagram DM. "I'm not getting paid to be a prosecutor so it's ultimately a waste of time for a musician to be in court."

**Read more:** *Azealia Banks reveals why she thinks Elon Musk was right to settle with the SEC and who Tesla should tap as its new chairman*

## The problems caused by 'funding secured'

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Tesla CEO Elon Musk.  
Chris Carlson / Associated Press

The motion asking the court for permission to serve preservation subpoenas is related to a lawsuit filed against Tesla and the company's CEO, Elon Musk, in August, after Musk tweeted that funding was "secured" to take Tesla private at \$420 a share. Banks was staying at one of Musk's Los Angeles properties soon after he posted the tweet, and told Business Insider she saw Musk "scrounging for investors" when she stayed at his house.

In December, attorneys representing the investors led by Apton moved for permission to subpoena Banks and Grimes, the singer and songwriter whose real name is Claire Boucher, who was dating Musk at the time. The motion also proposes subpoenaing Business Insider — which interviewed Banks regarding her time at Musk's property — as well as Gizmodo and The New York Times, which interviewed Musk.

**Read more:** *Rapper Azealia Banks claims she was at Elon Musk's house over the weekend as he was 'scrounging for investors'*

"Ms. Boucher and Ms. Banks were in close contact with Mr. Musk before and after the tweet and are believed to be in possession of relevant evidence concerning Mr. Musk's motives," Apton told Business Insider on Monday. "Business Insider also appears to have relevant evidence in light of its relationship with Ms. Banks."

The motion to serve subpoenas seeks to require the parties to preserve information, such as Twitter and Instagram messages, that could be relevant to the case. The filing argues messages posted on social media and shared via text message are "highly susceptible to deletion."

On Friday, Banks had said she would be happy to share whatever information attorneys are seeking.

"Since I will be under oath, I have no choice but to tell the exact same honest truth I told in the past — except this time it won't be vulgar," Banks said at the time.

"The courthouse isn't the internet, so if investors are looking to me to give them the iconic, succinct, truthful, legendary, dramatic-pop-culture-courthouse monologue ... they will absolutely get it."

However, on Monday, Banks told Business Insider she had changed her mind and told Musk's lawyers she no longer wished to testify.

"I don't have any relevant information to add tbh," she said on Monday. "I'm not a stock analyst."

Banks declined to say whether Musk's lawyers reached out to her over the weekend. She also declined to answer a question on the validity of Apton's concerns. Banks said she plans to wait until the court decides to grant or decline permission to serve the subpoenas to speak on the topic further.



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